

RECEIVED  
CENTRAL FAX CENTER

APR 11 2006



## UNITED STATES PATENT AND TRADEMARK OFFICE

### Facsimile Transmission

To:                      Name:                      Central Fax  
                            Company:  
                            Fax Number:              (571) 273-8300  
                            Voice Phone:

From:                   Name:  
                            Voice Phone:

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

---

---

Date and time of transmission: Tuesday, April 11, 2006 4:19:26 PM  
Number of pages including this cover sheet: 04

---

PTO/SB/21 (09-04)


Approved for use through 07/31/2008, OMB 0651-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

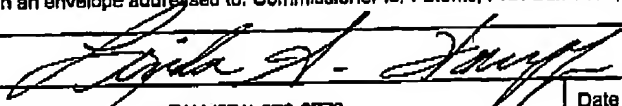
Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/825,048	
	Filing Date	April 15, 2004	
	First Named Inventor	Richard J. MACKOOL	
	Art Unit	3783	
	Examiner Name	Melissa A. McCORKLE	
Total Number of Pages in This Submission	3	Attorney Docket Number	103471-51150-US

**RECEIVED**  
**CENTRAL FAX CENTER**  
**APR 11 2006**

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. APPLICANT INITIATED INTERVIEW REQUEST FORM 2. CONTINUATION SHEET
<input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE		
Signature			
Printed name	ROBERT J. HESS		
Date	APRIL 11, 2006	Reg. No.	32,139

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			Date
Typed or printed name	LINDA S. HAUFF	FAX (571) 273-2773	APRIL 11, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## Applicant Initiated Interview Request Form

Application No.: 10/825,046 First Named Applicant: Richard J. MACKOOL  
Examiner: Melissa A. McCorkle Art Unit: 3763 Status of Application: Final Rejection

## Tentative Participants:

(1) Robert J. Hess (2) \_\_\_\_\_  
(3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: 4/18/2006 Proposed Time: 10:00 A (AM/PM)

## Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video ConferenceExhibit To Be Shown or Demonstrated: ☐ YES ☒ NO  
If yes, provide brief description: SEE ATTACHED CONTINUATION SHEET.

## Issues To Be Discussed


Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) _____	_____	_____	[ ]	[ ]	[ ]
(2) _____	_____	_____	[ ]	[ ]	[ ]
(3) _____	_____	_____	[ ]	[ ]	[ ]
(4) _____	_____	_____	[ ]	[ ]	[ ]
[ ] Continuation Sheet Attached					

Brief Description of Arguments to be Presented: SEE ATTACHED CONTINUATION SHEET.

An interview was conducted on the above-identified application on \_\_\_\_\_.

**NOTE:** This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

  
Applicant/Applicant's Representative Signature  
ROBERT J. HESS

Examiner/SPB Signature

Typed/Printed Name of Applicant or Representative  
32,139

Ref: 103471-51150-US

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

USSN 10/825046

**Applicant Initiated Interview Request Form - (Continuation Sheet)**

**Issues to Be Discussed**

**Brief Description of Arguments to be Presented:**

Bailly pertains to dentist surgery, not eye surgery devices.

Bailly shows a cover 16 with one end connected to an adaptor 4, while the other end is free.

As best understood, the Examiner's position is that Bailly's cover 16 is connectable to nozzle 7 (although it accommodates insertion of conduit 4). Figs. 2a, 2b, 2c and 3 of Bailly, however, show the nozzle 7 spaced away out of contact from the cover 16 and therefore not disclosed to be connectable to it. There is no reason to so connect, even if it were feasible since either the cover 16 would not be integrally formed with the adaptor 4 or the upstream end of the conduit 4 would become exposed to environment contamination.

Pending independent Claims 1 and 9 recite a sterile, tubular sheath whose distal end is secured to a hollow extension tube and recites that the sheath is secured to the aspiration tube (at a location spaced from the distal end of the expiration tube).